

Amendment
U.S. Appl. No.: **10/595,823**
Attorney Docket No. **LAV0313827**

AMENDMENST TO THE DRAWINGS

Please replace the original sheets of drawings by the replacement sheets of drawings in which Figs. 1 and 2 have been amended to insert labels from the specification. No new matter has been added.

REMARKS

By the present amendment, the specification has been amended to insert section headings.

New method claims 11-20 corresponding to system claims 1-10 have been added. Thus, claims 1 and 11 recite a common special technical feature that defines a contribution to the art. Since the present application is a national stage of a PCT application, it is submitted that system and method claims should be examined together in accordance with PCT “unity of invention” rules.

The abstract has been amended to correct informalities.

In the drawings, Figs. 1 and 2 have been amended to insert labels from the specification. No new matter has been added.

Claims 1-20 are pending in the present application. Claims 1 and 11 are the only independent claims.

I. Objections

In the Office Action, Figs. 1 and 2 are objected to as lacking worded labels, the specification is objected to as lacking section headings, and the abstract is objected to as using improper language.

The specification has been amended to insert section headings, the drawings have been amended to insert labels in Figs. 1 and 2, and the abstract has been amended to remove the language objected to. Accordingly, it is submitted that the objections should be withdrawn.

II. Double-patenting rejection

In the Office Action, claims 1-6 are rejected under 35 U.S.C. 101 for double-patenting over

claims 1-6 of US2007/0113545, i.e., U.S. Appl. No. 11/595,822, now U.S. Patent No. 7343737 (“the ‘737 patent”).

The rejection is respectfully traversed. Present claim 1 recites three strategies for controlling the operation of the engine, whereas claim 1 of the ‘822 application recites four strategies (see claim 1, col. 6, lines 23-24 of the ‘737 patent). Thus, the present claims and the claims in the ‘737 patent are not coextensive in scope. See MPEP 804(II)(A).

In particular, present claim 1 does not recite “the fourth strategy being referred to a super-calibrated level 2 strategy, the temperature level obtained by applying the fourth, super-calibrated level 2 strategy being higher than that obtained by applying the third, level 2 strategy”, as in claim 1 of the ‘822 application (see claim 1, col. 6, lines 30-34 of the ‘737 patent).

Also, present claim 1 does not require that a means for monitoring the rich mixture operation of the engine “cause the engine to operate with a lean mixture in a fourth, super-calibrated level 2 strategy if the temperature level in the exhaust line drops below a predetermined low temperature threshold during a fourth time period” as in the ‘822 application (see claim 1, col. 6, lines 57-61 of the ‘737 patent).

In summary, the present claims and the claims of the ‘737 patent do not define the same invention under 35 U.S.C. 101. Accordingly, it is submitted that the rejection should be withdrawn.

Further, without admission, prejudice or disclaimer, a Terminal Disclaimer over the corresponding U.S. patent is submitted with this paper.

Conclusion

In conclusion, the invention as presently claimed is patentable. It is believed that the claims are in allowable condition and a notice to that effect is earnestly requested.

In the event there is, in the Examiner's opinion, any outstanding issue and such issue may be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to our Deposit Account No. 502759.

Respectfully submitted,

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